IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

WEDNESDAY, THE 27TH JUNE 2007 / 6TH ASHADHA 1929

WP(C).No. 8194 of 2006(A)

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PETITIONER:

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C.H.YOUSUF HAJI,
S/O.KUNHABDULLA, AGED
RESIDING AT "AZHUTHU PALLIPARAMBATH HOUSE",
CHAMADAYULLATHIL, P.O.PUTHUR,
THALASSERY.

BY ADV. SRI.C.KHALID
ADV. SHRI.T.P.SAJID

RESPONDENTS:

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1. THE TAHSILDAR,
THALASSERY TALUK,
THALASSERY.

2. THE REVENUE DIVISIONAL OFFICER, (RDO),
THALASSERY.

3. THE BUILDING TAX APPELLATE AUTHORITY,
(DISTRICT COLLECTOR),
KANNUR.

BY ADV. SHRI.MOHAMMED RAFIQ, GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 27/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C) No. 8194/2006

**APPENDIX**

PETITIONER'S EXHIBITS

P1 : COPY OF THE RECEIPT DATED 26/03/1996.

P2 : COPY OF THE SKETCH PLAN MEASUREMENT PREPARED BY LICENCED BUILDING SUPERVISOR DATED 15/02/2006.

P3 : COPY OF THE CERTIFICATE DATED 08/04/2003 FROM THE SECRETARY, KUNNOTHUPARAMBA GRAMA PANCHAYAT.

P4 : COPY OF THE NOTICE DATED 28/08/2002 REF. NO. 24936/00 FROM THE 1ST RESPONDENT.

P5 : COPY of the RECEIPT ON 28/03/2003.

P6 : COPY OF THE ORDER IN REF. G-51117/2005 DATED 17/01/2006 TO THE 3RD RESPONDENT.

// TRUE COPY //

PA TO JUDGE.

jg

**C.N.RAMACHANDRAN NAIR, J.**

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**WP(C) No. 8194 of 2006**

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**Dated, this the 27th day of June, 2007**

**J U D G M E N T**

Petitioner is challenging the demand of luxury tax on the ground that construction of building was completed prior to 01/04/1999. Learned Government Pleader submitted that though return was filed, date of completion of construction of building was not reported. Moreover, according to him, petitioner has paid the building tax assessed without dispute. For the purpose of payment of building tax, date of completion of construction of building is not relevant. However, since luxury tax is a recurring liability, petitioner is entitled to challenge the demand and in this regard, date of completion of construction of building is very relevant because if construction of building is completed on or after 01/04/1999, there is no liability. Learned counsel for the petitioner produced property tax payment receipt and receipt for payment of electricity bill for the period prior to 01/04/1999. In the circumstances, WP(C) is disposed of directing 1st respondent to go through the evidence produced by the petitioner, such as electricity

bills, property tax payment receipts etc. and if required conduct enquiry at the electricity office and come to the findings with regard to the date of completion of construction of building and then determine luxury tax liability of the building. Tahsildar should after perusing the records produced by the petitioner and after considering the date of completion of construction of building, issue notice to the petitioner and if he proposes to fix the date of completion of construction of building on any date after 01/04/1999, he should hear the petitioner and then pass appropriate order. Recovery proceedings against the petitioner for recovery of luxury tax will remain stayed for three months from now, within which time 1st respondent will decide the matter afresh. Recovery after three months will be based on the fresh orders to be issued by the Tahsildar. Petitioner will produce copy of the judgment and other documents before the 1st respondent for compliance.

This WP(C) is disposed of as above.

**(C.N.RAMACHANDRAN NAIR, JUDGE)**

jg